

**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

DON GORDON HENRY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

CASE NO. 5:05-CR-59 (MTT)

ORDER

This matter is before the Court on the Recommendation of United States Magistrate Judge Charles H. Weigle (Doc. 177) on Petitioner Don Gordon Henry's successive Motion to Vacate, Set Aside, or Correct Sentence filed pursuant to 28 U.S.C. § 2255 (Doc. 174). The Petitioner has not objected to the Recommendation. The Magistrate Judge recommends dismissing the Motion because this is the Petitioner's second or successive motion. Before the district court can consider a successive or second motion, a petitioner must first "move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A); see 28 U.S.C. § 2255(h) (cross-referencing § 2244 certification requirement).

Here, the Petitioner filed the present Motion without prior Eleventh Circuit approval, and thus the district court is without jurisdiction to consider the Motion. The Court has reviewed the Petitioner's Motion and the Recommendation. The

Recommendation is adopted, and the Petitioner's Motion to Vacate, Set Aside, or Correct Sentence is **DENIED**. (Doc. 174).

SO ORDERED, this the 27th day of August, 2012.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT